

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

THE HOLMES GROUP, INC.,

Plaintiff,

v.

WEST BEND HOUSEWARES, LLC and  
FOCUS PRODUCTS GROUP, LLC,

Defendants.

Civil Action No. 05-CV-11367 WGY  
(Alexander, M.J.)

**DEFENDANTS' MOTION TO COMPEL  
THE PRODUCTION OF DOCUMENTS**

**INTRODUCTION**

West Bend Housewares, LLC and Focus Products Group, LLC (collectively “West Bend”) has repeatedly asked the Holmes Group (“Holmes”) to comply with its discovery obligations and produce unquestionably relevant documents – as it agreed to do. Holmes has repeatedly stalled in producing these documents, and the time has come to end Holmes’ dilatory tactics. Holmes brought this patent infringement action against West Bend, and it cannot drag its feet any longer in efforts to prevent West Bend from preparing its defense. The discovery cut-off is fast approaching, and Holmes should not be allowed to use delay tactics to thwart West Bend’s defenses and counterclaims in this litigation.

Accordingly, for the reasons stated in the accompanying memorandum, West Bend respectfully requests an Order compelling the immediate production by Holmes of the documents identified in the memorandum, including the production of documents responsive to the following subject matters: (1) sales Holmes allegedly lost as the result of West Bend’s purported infringement; (2) expenses associated with Holmes’ “kitchen business unit,” including operating expenses, G & A expenses, selling expenses, variances, and other overhead as well as

profit and loss statements for Holmes' "kitchen business unit"; (3) Holmes' profits from its sales of slow cookers accused of infringing the West Bend design patents; (4) the involvement of Holmes' Chinese affiliate, Holmes HTC, in the design and development of Holmes programmable slow cooker, including any sales or offers to sell a programmable slow cooker by Holmes HTC; (5) the design and development of the programmable slow cooker patented by Holmes; and (6) the development, sales, and offers to sell programmable rice cookers and other prior art cookers which were not disclosed to the Patent Office during prosecution of Holmes' patents-in-suit.

**CERTIFICATE PURSUANT TO CIVIL LOCAL RULES 7.1 AND 37.1**

I certify that counsel to the parties conferred by telephone on October 6, 2006, and were unable to resolve the issues identified in this Motion.

WEST BEND HOUSEWARES, LLC  
FOCUS PRODUCTS GROUP, LLC

*By their attorneys,*

/s/ Erik P. Belt

Erik Paul Belt, BBO # 558620  
BROMBERG & SUNSTEIN LLP  
125 Summer Street  
Boston, Massachusetts 02110  
Tel: (617) 443-9292  
Facsimile: (617) 443-0004  
[ebelt@bromsun.com](mailto:ebelt@bromsun.com)

<p>Of Counsel:</p> <p>Charles A. Laff Martin L. Stern MICHAEL BEST &amp; FRIEDRICH LLP 401 N. Michigan Ave. – Ste. 1900 Chicago, Illinois 60611 Tel: (312) 222-0800 <a href="mailto:calaff@michaelbest.com">calaff@michaelbest.com</a></p>	<p>Michael E. Husmann Joseph T. Miotke MICHAEL BEST &amp; FRIEDRICH LLP 100 E. Wisconsin Avenue Milwaukee, Wisconsin 53202 Tel: (414) 271-6560 <a href="mailto:mehusmann@michaelbest.com">mehusmann@michaelbest.com</a></p>

**CERTIFICATE OF SERVICE**

I certify that, on October 11, 2006, this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Emily J. Schaffer  
Emily J. Schaffer